

REMARKS

Applicants have received and carefully reviewed the Final Office Action mailed September 15, 2009. Claims 16-20, 22-33, and 35-36 have been rejected. With this Amendment, claims 16 and 29 have been amended and claims 33 and 35-36 have been canceled. Claims 16-20 and 22-32 remain pending. Favorable consideration of the following remarks is respectfully requested.

Claim Rejections under 35 U.S.C. §103

On page 2 of the Final Office Action, claims 16-20, 22, 24, 29-33 and 35-36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Webster, Jr. (U.S. Patent No. 5,057,092) in view of Kaye (U.S. Patent No. 4,191,219). After careful review, Applicants respectfully traverse this rejection.

Turning to claim 16, which recites:

16. An intravascular catheter comprising an elongate shaft including an inner polymer layer defining a lumen of the elongate shaft, a reinforcement layer disposed about the inner polymer layer, and an outer polymer layer disposed about the reinforcement layer, the reinforcement layer comprising a tubular braid having a first helical member interwoven with a second helical member forming a plurality of crossover points and a plurality of axial members disposed between the first helical member and the second helical member at each of the plurality of crossover points, wherein the plurality of axial members are not fixed to the inner polymer layer and the outer polymer layer such that the plurality of axial members are moveable relative to the inner polymer layer and the outer polymer layer.

Nowhere do Webster, Jr. or Kaye disclose many elements of claim 16, including for example, “the reinforcement layer comprising a tubular braid having a first helical member interwoven with a second helical member forming a plurality of crossover points and a plurality of axial members disposed between the first helical member and the second helical member at each of the plurality of crossover points, wherein the plurality of axial members are not fixed to the inner polymer layer and the outer polymer layer such that the plurality of axial members are moveable relative to the inner polymer layer and the outer polymer layer”. For at least these reasons, claim 16 is believed to be patentable over Webster, Jr. and Kaye. For similar reasons and others, claims 17-20, 22 and 24, which depend from claim 16 and include additional distinguishing

features, are believed to be patentable over Webster, Jr. and Kaye.

Turning to claim 29, which recites:

29. A method of making a portion of a shaft of an intravascular catheter, the method comprising the steps of:

providing a carrier including an elongate tube having an inner polymer layer disposed thereon;

braiding a first helical member, a second helical member, and a plurality of axial members about the carrier forming a plurality of crossover points, wherein the plurality of axial members are disposed between the first and second helical members at each of the plurality of crossover points such that the plurality of axial members are not fixed to the inner polymer layer; and

disposing an outer polymer layer over the reinforcement layer, wherein the outer polymer layer is not fixed to the plurality of axial member.

Nowhere do Webster, Jr. and Kaye disclose many elements of claim 29, including for example, the specific method step of “braiding a first helical member, a second helical member, and a plurality of axial members about the carrier forming a plurality of crossover points, wherein the plurality of axial members are disposed between the first and second helical members at each of the plurality of crossover points such that the plurality of axial members are not fixed to the inner polymer layer” and “disposing an outer polymer layer over the reinforcement layer, wherein the outer polymer layer is not fixed to the plurality of axial member”. Therefore, for similar reasons discussed above, as well as others, claim 29 is believed to be patentable over Webster, Jr. and Kaye. For similar reasons and others, claims 30-32, which depend from claim 29 and include additional distinguishing features, are believed to be patentable over Webster Jr. and Kaye.

On page 5 of the Final Office Action, claims 16-20, 22, 24, 29-33, 35 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Webster (U.S. Patent No. 5,057,092) in view of Huppert (U.S. Patent No. 2,114,274). After careful review, Applicants respectfully traverse this rejection.

Nowhere do Webster, Jr. or Huppert disclose many elements of claim 16, including for example, “the reinforcement layer comprising a tubular braid having a first helical member interwoven with a second helical member forming a plurality of crossover points and a plurality of axial members disposed between the first helical member and the second helical member at each of the plurality of crossover points, wherein the plurality of axial members are not fixed to the inner polymer layer and the outer polymer layer such that the plurality of axial members are

moveable relative to the inner polymer layer and the outer polymer layer". For at least these reasons, claim 16 is believed to be patentable over Webster, Jr. and Huppert. For similar reasons and others, claims 17-20, 22 and 24, which depend from claim 16 and which include additional distinguishing features, are believed to be patentable over Webster, Jr. and Huppert.

For similar reasons and others, independent claim 29 is believed to be patentable over Webster, Jr. in view of Huppert. For similar reasons and others, claims 30-32, which depend from claim 29 and include additional distinguishing features, are believed to be patentable over Webster, Jr. in view of Huppert.

On page 7 of the Final Office Action, claims 23 and 25-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Webster, Jr. (U.S. Patent No. 5,057,092) in view of Kaye (U.S. Patent No. 4,191,219) or Huppert (U.S. Patent No. 2,114,274) and further in view of Mortier et al. (U.S. Patent No. 5,730,733). After careful review, Applicants respectfully traverse this rejection. As discussed previously, claim 16 is believed to be patentable over Webster, Jr. and Kaye or Huppert, and nothing in Mortier et al. remedies the above-noted shortcomings of Webster, Jr. Therefore, for at least these reasons, claims 23 and 25-28, which depend from claim 16 and which include additional limitations, are believed to be patentable over the cited references.

Double Patenting Rejections

On page 8 of the Final Office Action, claims 16-32 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,709,429. Also on page 9 of the Final Office Action, claims 16 and 22-30 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 6-9, 11 and 13-28 of U.S. Patent No. 6,942,654. Applicants do not concede the correctness of the rejection. However, if the rejection remains when the claims are otherwise indicated as being allowable, Applicants will file a Terminal Disclaimer.

Conclusion

Reconsideration and further examination of the rejections are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,

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